

response therefor amends the claims to clarify each instance of wording mentioned in the office action, and as amended, the claims are believed to be clear and unobjectionable.

The office action made several statements about claims being allowable when meeting the requirements of 35 USC 112, and when collected together, these statements indicate that claims 1-16 and 23-27 should now be allowed. Claims 17-22 should be included in this list, because these claims are listed as examined and are not rejected on any other ground. In effect, this means that all the pending claims should now be allowed, but for good measure applicant's attorney nevertheless addresses the rejections on other grounds.

Rejections under 35 USC 102 (b)

Claims 1,5,6,8 and 9 are rejected as anticipated by Harvey who suggests a handle and tension elements extending in various directions from the handle and from the exerciser. The office action suggests that the claimed arrangements could be achieved by the Harvey device.

The Harvey patent itself, however, does not suggest this. Harvey does not propose that a handle be moved in a simulated golf swing motion as required by claims 1 and 8. Nor does Harvey suggest, as these claims require, that the golf swing motion extend from a back swing region to a hitting region.

Although the Harvey reference suggests a variety of tension regions, none of these are proposed to be positioned as claimed relative to a back swing side of an exerciser. The tension arrangements proposed by Harvey can accomplish many different resistances, but none of these are as claimed. Claims 1 and 8, for example, require resistance to downward motion of a golf swing handle from a back swing region and increased resistance to movement of the handle laterally into a hitting region of a golf swing. Harvey does not contain any hint of any such motions or of resistances applied in the claimed way to portions of such motions. A person following the Harvey teaching would not even consider a golf swing as an exercise possibility.

Claims 1-3, 4 and 8 were rejected as anticipated by Blom who suggests a baseball tethered by elastic cords so that it can be struck by a bat. The office action suggests that the tethered ball can be used as a handle, but this contradicts Blom's entire teaching. Also, gripping the ball as a handle instead of hitting it with a bat, would still have nothing to do with golf

exercise and would not meet the many claim limitations involving swing motion tension region location and direction of tension resistance during portions of a golf swing.

In citing Blom, the office action mentioned that claims 1 and 8 are not considered as including a handle. Each of these claims defines a handle not only in the preamble, but also several times in the claim bodies. They set out how the handle moves, what is connected to the handle, and what resistances are applied in what direction during movement of the handle. Applicant's attorney does not know of any basis for reading the handle out of these claims.

Claims 1, 2, 8 and 9 were also rejected as anticipated by Boardman who suggests a handle suspended by elastic cords within a frame. As constrained by the frame, there is no way to move the Boardman handle in a simulated golf swing. The Boardman reference cannot meet the many limitations of claims 1 and 8 involving different tensions applied at different points and different directions to a handle moving through the path of a simulated golf swing.

In citing Boardman the office action mentioned that defining an exercise device by referencing regions of the body is "non-limiting". Applicant's attorney does not know of any basis for this conclusion. The claimed invention aims at strengthening and training muscles involved in executing a golf swing, and defining the swing movement and the necessary resistances relative to the body performing the exercise is quite appropriate. The movements and resistances that are effective in improving a golf swing according to the invention require the claimed relationship to the body simulating the swing. There is no need to read these limitations out of the claims.

Rejection under 35 USC 103(a)

Claims 7, 14 and 15 were rejected as obvious from Blom in view of Hinds who suggests elastic cords reeved over pulleys. Adding pulleys for the cords tethering the Blom ball would have nothing to do with golf exercise. Neither reference suggests moving a handle through a simulated golf swing, and neither reference teaches the claimed ways of applying tension resistances in the proper directions and locations as such a swing proceeds.

Since the claims as amended clearly meet the requirements of 35 USC 112, they can now be allowed as the office action has suggested. Moreover, the claims, when read to include all

their limitations, clearly distinguish from the cited art, so that rejections on 35 USC 102 and 103 can be withdrawn. These well-supported conclusions then justify allowing all the pending claims. For any question on this, the examiner is asked to call applicant's attorney.

Conclusion

Applicant believes the claims, as amended, are patentable over the prior art, and that this case is now in condition for allowance of all claims therein. Such action is thus respectfully requested. If the Examiner disagrees, or believes for any other reason that direct contact with Applicants' attorney would advance the prosecution of the case to finality, he is invited to telephone the undersigned at the number given below.

"Recognizing that Internet communications are not secured, I hereby authorize the PTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

Respectfully Submitted:
Yong Woo Kim

By: Eugene S. Stephens
Eugene S. Stephens, Registration number: 20,649
Attorney for Applicant

5 Feb 04
Date

BROWN & MICHAELS, P.C.
400 M&T Bank Building - 118 N. Tioga St.
Ithaca, NY 14850
(607) 256-2000 • (607) 256-3628 (fax)
e-mail: bpm@bpmlegal.com